



**DEPARTMENT OF PERSONNEL**

209 E. Musser Street, Room 101  
Carson City, Nevada 89701-4204  
(775) 684-0150  
[www.state.nv.us/personnel/](http://www.state.nv.us/personnel/)

**MEMO PERD #19/01**

June 22, 2001

TO: Personnel Commission Members  
Department Directors  
Division Administrators  
Personnel Liaisons  
Personnel Representatives  
Designees for Rules Distribution  
Employee Representatives  
Interested Parties

FROM: Jeanne Greene, Director  
Department of Personnel

SUBJECT: REGULATION CHANGES

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The regulation changes included with this memorandum are being proposed for adoption at the August 3, 2001, Personnel Commission meeting. This meeting will be held at 9:00 a.m. at the Grant Sawyer State Office Building, 555 East Washington Avenue, Suite 4412, Las Vegas, Nevada. A video conference link will also be available in Carson City at the Legislative Building, 401 South Carson Street, Room 2144. An informational note precedes each regulation which explains the nature and purpose of the proposed change to the regulation.

In order to review the proposed changes in the regulations and solicit comments from interested persons, a workshop will be held at 9:30 a.m. on July 12, 2001, at the Nevada Department of Transportation, 1263 South Stewart Street, Room 302, Carson City, Nevada. A video conference link will also be available in Las Vegas at the Nevada Department of Transportation, 123 East Washington Avenue, Building B - Training Room.

Please circulate or post the enclosed *Notice of Workshop to Solicit Comments on Proposed Regulations* and *Notice of Hearing* along with the *text of the proposed regulations*, or otherwise notify your employees.

JG:cp

Enclosures



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**NOTICE OF WORKSHOP  
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS  
and  
NOTICE OF HEARING  
for  
THE ADOPTION AND AMENDMENT  
of  
REGULATIONS OF THE STATE PERSONNEL DEPARTMENT**

**Workshop Notice:** The Department of Personnel, 209 East Musser Street, Carson City, Nevada, telephone number (775) 684-0119, is proposing the permanent adoption and amendment of regulations pertaining to Chapter 284 of the Nevada Administrative Code.

A workshop has been set for 9:30 a.m. on July 12, 2001, at the Nevada Department of Transportation, 1263 South Stewart Street, Room 302, Carson City, Nevada. A video conference link will also be available in Las Vegas at the Nevada Department of Transportation, 123 East Washington Avenue, Building B - Training Room. The purpose of the workshop is to solicit comments from interested persons on the proposed changes to the following sections of the Nevada Administrative Code.

**ACTION**

**NAC REGULATION**

**Temporary regulations proposed for permanent adoption and amendment**

Holiday premium pay defined	New Section
Computation of payments for holidays	284.526
Compensation for working on holidays	284.530

**Newly proposed regulations for permanent adoption**

Holiday premium pay defined	New Section
Longevity pay: Part-time employees; applicable formulas	284.278
Appointing authority prohibited from appointing related persons under certain circumstances; exceptions.	284.375
Persons who become related after appointment: Appointing authority required to take corrective action; notification of appointing authority required	284.377
Administrative leave with pay	284.589
Confidential records	284.718
Access to confidential records	284.726
Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath.	284.884

A copy of all materials relating to the proposed regulations is included with this announcement. Additional copies may be obtained at the workshop or by contacting the Department of Personnel offices at 209 East Musser Street, Room 300,

Carson City, Nevada, telephone number (775) 684-0119, or 555 East Washington Avenue, Suite 1400, Las Vegas, Nevada, telephone number (702) 486-2900. A reasonable fee for copying may be charged.

**Hearing Notice: The Personnel Commission will hold a public hearing at 9:00 a.m. on August 3, 2001,** at the Grant Sawyer State Office Building, 555 East Washington Avenue, Suite 4412, Las Vegas, Nevada, and video conferenced to the Legislative Building, 401 South Carson Street, Room 2144, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of regulations. If no person, who is directly affected by the proposed action, appears to request time to make an oral presentation, the Personnel Commission may proceed immediately to act upon any written submissions.

- These regulations do not have a direct economic effect on any business or the public.
- Enforcement of these regulations should not result in any increased cost.
- To our knowledge, these regulations do not overlap or duplicate the regulations of other state or local governmental agencies.
- These regulations do not establish any new fee or increase an existing fee.
- A statement of the need for and purpose of the proposed regulations precedes the text of each regulation included in the attached document.

Persons wishing to comment upon the proposed action of the Personnel Commission may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Phil Hauck, Department of Personnel, 209 East Musser Street, Room 300, Carson City, Nevada 89701-4204. **Written submissions must be received by the Department of Personnel on or before July 14, 2001.**

A copy of this notice and the regulations to be adopted and amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and the regulations to be adopted and amended will be available at the Department of Personnel, 209 East Musser, Room 300, Carson City, Nevada, or at the Department of Personnel, 555 East Washington Avenue, Las Vegas, Nevada, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The notice of the Workshop and Hearing has been posted at the following locations:

#### **CARSON CITY**

Blasdel Building, 209 East Musser Street  
Nevada State Library, 100 Stewart Street  
Capitol Building  
State Legislature, 401 S. Carson Street

#### **LAS VEGAS**

Grant Sawyer State Office Building  
555 East Washington Avenue

#### **ALL NEVADA COUNTY PUBLIC LIBRARIES**

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**NOTE:** *We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Department of Personnel, in writing, at 209 East Musser Street, Room 101, Carson City, Nevada 89701-4204, or call Irene Davis at 684-0119, no later than five working days prior to the meeting.*

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**Temporary Regulations  
Proposed for Permanent Adoption**

Section 1 Chapter 284 is hereby amended by adding thereto a new section to read as follows:

**Explanation of Change:** This amendment, proposed by the Department of Personnel, provides a definition for "holiday premium pay."

**New Section "Holiday premium pay" defined.** *"Holiday premium pay" means compensation at the rate of time and one-half for hours worked on a legal holiday, except those hours subject to overtime as provided in NRS 284.180.*

Section 2 NAC 284.526 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by the Department of Personnel, provides that employees working more than eight hours on a holiday can receive holiday pay for hours worked on the legal holiday up to the number of hours established by an innovative work week agreement. Hours worked on a legal holiday that exceed their established work day or work week would be compensated at the rate of time and one-half.

For example:

1. An employee has an innovative work week agreement which allows him to work four ten-hour days, Monday through Thursday. A holiday occurs on a Monday and the employee works his established shift of ten hours. The employee is entitled to receive ten hours of holiday pay on an hour-for-hour basis and ten hours of holiday premium pay at the rate of time and one-half for working on a holiday.
2. An employee has an innovative work week agreement which allows him to work four ten-hour days, Tuesday through Friday. A holiday occurs on a Monday and the employee is scheduled to work ten hours on his regular day off in addition to his regularly scheduled work week. The employee is entitled to receive ten hours of holiday pay on an hour-for-hour basis and ten hours of pay at the rate of time and one-half for working overtime.
3. An employee has an innovative work week agreement which allows him to work four ten-hour days, Monday through Thursday. A holiday occurs on a Monday and the employee works twelve hours on the holiday and works his regularly scheduled work week. The employee is entitled to receive ten hours of holiday pay on an hour-for-hour basis, two hours of overtime at the rate of time and one-half, and ten hours of holiday premium pay at the rate of time and one-half.

**NAC 284.526 Computation of payments for holidays. (NRS 284.155, 284.345)**

1. For the purpose of this section, "paid status" means the time an employee is working, is on leave approved pursuant to NAC 284.580 or is on leave with pay, excluding overtime hours or catastrophic leave.

2. A full-time employee working other than a standard work week is entitled to the same number of paid holidays as a full-time employee working the equivalent standard work week.

3. Except as otherwise provided in subsections 11 and 12, a full-time employee who works 40 hours per week, does not work on a holiday and is in paid status during any portion of his scheduled shift immediately before the holiday is entitled to receive 8 hours of holiday pay.

4. Except as otherwise provided in subsections 11 and 12, a full-time employee who works more than 40 hours per week or 80 hours biweekly, is not scheduled to work on a holiday and is in paid status during any portion of his scheduled shift before the holiday is entitled to receive an amount of holiday pay equal to the pay received for his average workday. The average workday of an employee is determined by dividing the total scheduled hours of work per year by 2,088 and multiplying the quotient by 8. For the purposes of this subsection, a fireman assigned to a 24-hour shift shall be deemed to work 56 hours per week and 2,912 hours per year.

5. Except as otherwise provided in subsection 11 and 12, an employee ~~[who is scheduled to work on a holiday and]~~ who works any portion of ~~[his scheduled shift]~~ *the legal holiday* is eligible to receive holiday pay in the amount provided in subsection 3 or 4. ~~[The]~~ *An employee who has an innovative work week schedule* is entitled to earn additional holiday pay on an hour-for-hour basis for any hours worked in addition to the period represented by the holiday pay *up to the number of*

*hours of his established workday.* [~~if the hours are worked as part of the employee's normally scheduled shift.~~]. Any hours worked [~~in addition to the normally scheduled shift~~] *that exceed the established workday, under the innovative work week agreement,* do not qualify for additional holiday pay.

6. An employee who works on a holiday must be in paid status on that holiday for the amount of time which is the difference between the time represented by his holiday pay and his normal work schedule for that holiday. If the employee has not worked enough hours to be in paid status, he must use sick leave, annual leave, or compensatory time to make up the difference.

7. Except as otherwise provided in subsection 11, an employee who is scheduled to work on a holiday, but does not work, is eligible for holiday pay in the manner provided in subsection 3 or 4.

8. A full-time employee whose employment begins on a holiday is entitled to receive holiday pay in accordance with subsection 3 or 4 if he is in paid status during his scheduled shift.

9. A full-time employee whose regular schedule of work is more than 8 hours, but who has the day off because of a holiday, may use annual leave, compensatory leave, or have his schedule adjusted for the amount of time in excess of the holiday pay to which he would be entitled pursuant to subsection 3 or 4. An employee who does not elect to use annual leave or compensatory time and whose schedule is not adjusted may, with the approval of the appointing authority, be placed on a leave of absence without pay.

10. An employee working a part-time standard, nonstandard or innovative work week must be paid holiday pay if:

(a) The holiday falls on a scheduled workday; and

(b) He is in paid status during his scheduled shift immediately before the holiday or on the holiday if his employment begins on that day.

The amount of holiday pay must not exceed 8 hours but must otherwise equal what he would have been paid if there had not been a holiday.

11. An employee scheduled to work on a holiday who fails to report his absence to his supervisor or a designated representative as required by NAC 284.590 is not entitled to receive compensation for the holiday.

12. An employee whose employment is terminated:

(a) The day before the holiday is not entitled to receive compensation for the holiday.

(b) On a holiday on which he is working must be paid an amount for the holiday in proportion to the time he actually worked on the holiday. When an employee gives notice to terminate on a holiday and is not scheduled to work on the holiday, the last day worked or in paid leave status is his date of termination.

13. An employee who transfers the day before a holiday becomes an employee of record in the new agency on the holiday and is entitled to receive compensation for the holiday from the new agency. An employee who transfers from an agency at the end of a shift on a holiday is entitled to receive compensation for the holiday from the previous agency.

14. An employee whose employment is not full-time employment is entitled to be paid holiday pay as provided in subsection 10.

15. Subsections 1 to 14, inclusive, do not apply to an excluded classified employee or excluded unclassified employee. The salary of an excluded classified employee or excluded unclassified employee must not be reduced solely because a holiday occurs on a scheduled workday of that employee.

[Personnel Div., Rule VII § B subsec. 2, eff. 8-11-73; A 7-3-76]--(NAC A by Dep't of Personnel, 10-26-84; 8-28-85; 1-26-87; 9-17-87; 4-19-88; 7-14-88; 7-21-89; 9-13-91; 9-16-92; 11-12-93; 3-23-94; R098-99, 9-27-99)

Section 3 NAC 284.530 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by the Department of Personnel, clarifies that an employee shall receive payment for the holiday as provided for in NAC 284.526 and either time and one-half holiday premium pay or time and one-half overtime for working on the holiday. An employee is not eligible for both time and one-half holiday premium pay and time and one-half overtime pay for the hours worked on the holiday.

**NAC 284.530 Compensation for working on holidays.**

*1. An employee is entitled to earn either holiday premium pay or overtime for actual hours worked on the legal holiday in addition to any holiday pay as provided for in NAC 284.526.*

[1]2. An employee, other than an excluded classified employee or excluded unclassified employee, must receive either time and one-half cash payment or time and one-half compensatory time for holidays worked.

[2]3. An employee entitled to a cash payment pursuant to subsection [1] 2 who works on a holiday may elect to receive compensatory time off for the holiday in lieu of any cash payment pursuant to NAC 284.526 if such an election does not exceed the limits on compensatory time imposed by NAC 284.250. All hours in excess of those limits must be paid in cash. The provisions of this subsection do not apply to a fireman who works a 24-hour shift.

[Personnel Div., Rule VIII § B part subsec. 3, eff. 8-11-73]--(NAC A by Dep't of Personnel, 7-21-89; 9-13-91; 3-23-94)

# **Newly Proposed Regulations for Permanent Adoption**



Section 1 Chapter 284 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by the members of the Highway Patrol, provides for "holiday premium pay" on the basis of a scheduled shift which may cross over two calendar days.

**New Section "Holiday premium pay" defined.**

1. *Except as provided for in subsections 2 and those hours subject to overtime as provided in NRS 284.180, "Holiday premium pay" means compensation at the rate of time and one-half for hours worked on a legal holiday*~~[, except those hours subject to overtime as provided in NRS 284.180].~~

2. *For the purpose of compensating an employee whose shift crosses two calendar days and the majority of the employee's hours worked occur on the legal holiday, the agency may designate the entire shift as hours worked on the legal holiday. This designation must be reflected on the timesheet. When the entire shift is designated as hours worked on the legal holiday, an employee shall not be compensated at the holiday premium rate for hours worked on another shift beginning or ending on the legal holiday.*

Section 2 NAC 284.278 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by the Department of Personnel, changes the regulation regarding calculation of longevity pay to be consistent with statute.

**NAC 284.278 Longevity pay:** ~~[Part-time employees;]~~ applicable formulas. (NRS 284.155, 284.175)

~~[1. - Except as otherwise provided in subsection 3, an eligible part time employee, or an eligible full time employee who works less than full time for a portion of the 6 month qualifying period, is entitled to receive longevity pay based on the following formula:~~

~~— The number of  
— hours worked  
—  $\frac{\text{hours worked}}{1044 \text{ hours}}$  X longevity increment = longevity payment for 6 months~~

~~2. - Except as otherwise provided in subsection 3, an employee whose regularly scheduled work shift is more than 40 hours per week or 80 hours biweekly is entitled to receive longevity pay based on the following formula:~~

~~— The number of hours  
— worked during 6 month  
— qualifying period  
—  $\frac{\text{hours worked during 6 month}}{\text{qualifying period}}$  X longevity increment = longevity payment for 6 months~~

~~— Total scheduled work  
— hours during 6 month  
— qualifying period~~

~~3. - Prorated longevity pay for an eligible part time or full time excluded classified employee or eligible part time or full time excluded unclassified employee must be calculated using the following formula:~~

~~— The number of 8 hour days  
— worked during 6 month  
— qualifying period  
—  $\frac{\text{8 hour days worked during 6 month}}{\text{qualifying period}}$  X longevity increment = longevity payment for 6 months~~

~~— 130.5 days~~

~~4. As used in this section, "hours" does not include overtime hours unless an employee:~~

~~(a) Is working more than 40 hours per week;~~

~~(b) The overtime hours are part of his regularly scheduled hours; and~~

~~(c) Payment for the overtime hours is compensation, as defined in NRS 286.025.]~~

1. *Except for excluded employees as provided for in subsection 3, longevity pay is based on the following formula:*

$$\frac{\text{The number of hours worked during 6-month qualifying period}}{\text{Total full-time equivalent hours for the pay class during 6-month qualifying period}} \times \text{longevity increment} = \text{longevity payment for 6 months}$$

2. As used in subsection 1, "hours worked" does not include overtime hours unless an employee's:

- (a) Pay class is more than 40 hours per week or 80 hours biweekly; and
- (b) Payment for the overtime hours is compensation, as defined in NRS 286.025.

3. *For excluded employees, longevity pay is based on the following formula:*

$$\frac{\text{The number of 8-hour days worked during 6-month qualifying period}}{\text{Total full-time equivalent days for the pay class during 6-month qualifying period}} \times \text{longevity increment} = \text{longevity payment for 6 months}$$

[Personnel Div., Rule III § M subsec. 6, eff. 9-6-74; A and renumbered as subsec. 5, 2-5-82]—(NAC A by Dep't of Personnel, 10-26-84; 9-13-91; 3-23-94; R031-98, 4-17-98)

Section 3 NAC 284.375 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by Governor Guinn and the Department of Personnel, provides that an appointing authority may not appoint a person to a position if the person is in the direct line of authority or would be the immediate supervisor of another person with whom he is having an amorous, dating and/or sexual relationship. Such relationships put the State at risk for claims of sexual harassment both by the subordinate employee and co-workers who may feel they are receiving unequal treatment.

**NAC 284.375 Appointing authority prohibited from appointing persons related or involved in a relationship [persons] under certain circumstances; exceptions.**

1. Except as otherwise provided in subsection 2 and NRS 281.210, an appointing authority shall not appoint a person to a position in the classified service on or after October 1, 1996, if, upon his appointment, the person will be the immediate supervisor, or will be in the direct line of authority, of:

- (a) A spouse, child, parent or sibling of the person;
- (b) The spouse of a child, parent or sibling of the person; [or]
- (c) An aunt, uncle, niece, nephew, grandparent, grandchild or first cousin of the person[.]; or
- (d) *A person with whom he is involved in an amorous, dating and/or sexual relationship. A dating relationship is defined as a relationship that may be reasonably expected to lead to the formation of a consensual amorous or sexual relationship.*

2. An appointing authority may adopt a written policy authorizing the appointment of persons to a position or class of positions in violation of subsection 1 if the appointing authority determines that, for the positions for which the policy applies, the enforcement of the provisions of subsection 1 will be impracticable and cause an undue hardship to the appointing authority. In making this determination, the appointing authority may consider, among other factors, the difficulty in recruiting applicants for the positions for which the policy applies.

3. A written policy adopted pursuant to subsection 2 must:

- (a) Be approved by the commission; and
- (b) Comply with the provisions of NRS 281.210.

4. If a written policy which is adopted by the appointing authority pursuant to this section is approved by the commission, the appointing authority shall provide a copy of the policy to each employee who is appointed to a position for which the policy applies.

(Added to NAC by Dep't of Personnel, 8-16-96, eff. 10-1-96)

Section 4 NAC 284.377 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by Governor Guinn and the Department of Personnel, provides that two people who become involved in an amorous, dating and/or sexual relationship after the employees are appointed shall not be allowed to continue to hold an immediate supervisor/subordinate reporting relationship or to be in the direct line of authority to the other. An exception would be allowed if reassignment would be impractical or cause an undue hardship to the agency. Such relationships put the State at risk for claims of sexual harassment both by the subordinate employee and co-workers who may feel they are receiving unequal treatment.

**NAC 284.377 Persons who become related *or involved in a relationship* after appointment: Appointing authority required to take corrective action; notification of appointing authority required.**

1. If employees of an appointing authority become related *or involved in an amorous, dating and/or sexual relationship* in such a manner that, if the relationship had existed when the employees were appointed, the appointing authority would have been prohibited from appointing one of those employees pursuant to *subsection 1 of NAC 284.375* [~~or a policy developed pursuant to NAC 284.375~~], the appointing authority shall ensure that, as soon as practicable [~~after the employees become related~~], the employees do not continue to hold positions in which one of the employees is the immediate supervisor, or is in the direct line of authority, of the other employee.

2. *An appointing authority may adopt a written policy developed pursuant to the requirements of subsections 2, 3 and 4 of NAC 284.375 to authorize such relationships when enforcement of the provisions of subsection 1 will be impracticable and cause an undue hardship to the appointing authority.*

[2]3. Employees who become related *or involved in an amorous, dating and/or sexual relationship* after they have been appointed to their positions as described in subsection 1 shall, within 10 working days after they become related *or involved*:

- (a) Notify the appointing authority of the relationship; and
- (b) Submit to the appointing authority a recommendation for action to be taken by the appointing authority to ensure that the employees do not continue to hold positions in which one of the employees is the immediate supervisor, or is in the direct line of authority, of the other employee.

[3]4. In determining the manner in which to comply with the provisions of subsection 1, the appointing authority is not required to accept a recommendation submitted pursuant to subsection [2]3.

(Added to NAC by Dep't of Personnel, 8-16-96, eff. 10-1-96)

Section 5 NAC 284.589 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by the Department of Personnel, clarifies that wellness fairs are authorized by the Public Employees Benefits Program, the agency responsible for employee health insurance.

**NAC 284.589 Administrative leave with pay. (NRS 284.155, 284.345)**

1. An appointing authority may grant administrative leave with pay to an employee:
    - (a) To relieve him of his duties during the active investigation of a suspected criminal violation or the investigation of an alleged wrongdoing;
    - (b) For up to 2 hours to donate blood; or
    - (c) To relieve him of his duties until the appointing authority receives the results of a screening test pursuant to NRS 284.4065.
  2. Except as otherwise provided in subsection 3, an appointing authority or the department of personnel may grant administrative leave with pay to an employee for any of the following purposes:
    - (a) His participation in, or attendance at, activities which are directly or indirectly related to the employee's job or his employment with the state but which do not require him to participate or attend in his official capacity as a state employee.
    - (b) Closure of the employee's office or worksite caused by a natural disaster or other similar adverse condition when the employee is scheduled and expected to be at work. An appointing authority may designate certain employees as essential and notify them that they are required to report to work.
    - (c) His appearance as an aggrieved employee or a witness at a hearing of the committee.
    - (d) His appearance as an appellant or a witness at a hearing conducted pursuant to NRS 284.390 by a hearing officer of the department of personnel.
    - (e) His appearance to provide testimony at a meeting of the commission.
  3. An appointing authority or the department of personnel shall grant administrative leave with pay to an employee for a purpose set forth in paragraph (c), (d) or (e) of subsection 2 if:
    - (a) The employee requests the administrative leave for a period of time that is reasonably needed for him to testify at the hearing or meeting;
    - (b) The employee requests the administrative leave at least 2 weeks before the leave is needed, unless such notice is impractical; and
    - (c) The absence of the employee will not cause an undue hardship to the operations of his appointing authority or adversely impact the provision of services to clients or to the public.
  4. An appointing authority shall grant administrative leave with pay to an employee for any of the following purposes:
    - (a) The initial appointment and one follow-up appointment if the employee receives counseling through the employee assistance program.
    - (b) His attendance at a wellness fair which has been authorized by the ~~[risk management division of the department of administration]~~ **public employees benefits program**.
    - (c) His participation in an official capacity as a member of a committee or board created by statute on which he serves as a representative of state employees. Such leave must be in lieu of other fees provided for attendance at meetings and participation in official functions of the committee or board.
    - (d) Up to 8 hours for preparation for hearings regarding his suspension, demotion or dismissal as provided in subsection 1 of NAC 284.656.
- (Added to NAC by Dep't of Personnel, eff. 10-26-84; A 8-28-85; 4-20-90; A by Personnel Comm'n, 8-1-91; A by Dep't of Personnel, 9-13-91; 12-26-91; 11-12-93; 3-23-94; 11-16-95; 10-27-97; R042-99, 9-27-99)

Section 6 NAC 284.718 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by the Department of Personnel, clarifies that records maintained by the Employee Assistance Program are confidential.

**NAC 284.718 Confidential records.**

1. The following types of information, which are maintained by the department of personnel or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the department of personnel on the condition that the source remain confidential;

(b) Any document which is used by the department of personnel or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Materials used in examinations including suggested answers for oral examinations;

(e) *Records and files maintained by the employee assistance program;*

(f) Reports by employers, appointing authorities, or law enforcement officials concerning the hiring, promotion, or background of applicants, eligible persons, or employees;

~~[(f)]~~(g) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of NAC 284.714, when an inquiry concerning the employee is received;

~~[(g)]~~(h) Any information contained on a person's application or relating to his status as an eligible person; and

~~[(h)]~~(i) Information in an employee's file or record of employment which relates to his:

(1) Performance;

(2) Conduct, including any disciplinary actions taken against him;

(3) Race, ethnic identity or affiliation, sex, disability, or date of birth; or

(4) Home telephone number.

2. If the employee has requested that his personal mailing address be listed as confidential, his file must be so designated and list his business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

(a) The employee dies; or

(b) The employee signs a release.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 7-21-89; 7-6-92; 11-12-93)

Section 7 NAC 284.726 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by the Department of Personnel, provides that confidential records maintained by the Employee Assistance Program may only be released by the written request of the employee or by an order of a court of law.

**NAC 284.726 Access to confidential records. (NRS 284.155)**

1. Except as otherwise provided in this subsection, access to materials for an examination and information relating to an applicant or eligible person which are relevant to an appointing authority's decision to hire that person is limited to the appointing authority or his designated representative. If the name of the applicant is not disclosed and the information is used for the purposes of paragraph (b) of subsection 1 of NAC 284.204, information relating to the education and experience of an applicant may be made available to any affected applicant, employee or the designated representative of either.

2. Except as otherwise provided in subsection 3, access to an employee's file of employment containing any of the items listed in paragraphs ~~[(e)]~~ (f) to (h), inclusive, of subsection 1 of NAC 284.718 is limited to:

(a) The employee.

(b) The employee's representative when a signed authorization from the employee is presented or is in his employment file.

(c) The appointing authority or a designated representative of the agency by which the employee is employed.

(d) The director of the department of personnel or his designated representative.

(e) An appointing authority, or his designated representative, who is considering the employee for employment in his agency.

(f) Persons who are authorized pursuant to any state or federal law or an order of a court.

(g) The state board of examiners if the board is considering a claim against the State of Nevada pursuant to chapter 41 of NRS which involves the employee.

3. Information concerning the health, medical condition or disability of an employee or a member of his immediate family must be kept separate from the employee's file in a locked cabinet. Access to such information is limited to the employee, his current supervisor and the appointing authority or his designated representative.

**4. Records maintained by the employee assistance program shall not be released to anyone without a written release of information signed by the employee or by an order of a court of law.**

{4}5. Upon request, the department of personnel will provide the personal mailing address of any employee on file with the department to the state controller's office and the Internal Revenue Service.

{5}6. The director or the appointing authority, or his designated representative, shall authorize the release of any confidential records under his control which are requested by the committee, a hearings officer, the commission, the Nevada equal rights commission or a court. If the director or his designated representative determines that the release of any confidential record is not necessary for those purposes, the decision may be appealed.

[Personnel Div., Rule XVI part § C, eff. 8-11-73]—(NAC A by Dep't of Personnel, 8-28-85; 9-30-88; 7-21-89; 8-14-90; 7-6-92; 3-23-94; R042-99, 9-27-99; R082-00, 8-2-2000)

Section 8 NAC 284.884 is hereby amended to read as follows:

**Explanation of Change:** This amendment, proposed by Governor Guinn and the Department of Personnel, provides a uniform standard for all employees when determining the maximum allowable concentration of alcohol in an employee's blood or breath.

**NAC 284.884 Maximum allowable concentrations of alcohol in blood or breath of employee; confirmation of positive result on screening test of breath.**

~~[1. - Except as otherwise provided in subsections 2 and 3, an employee must not have a concentration of alcohol in his blood or breath greater than .05 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority who has a reasonable belief that an employee is under the influence of alcohol or drugs in accordance with the provisions of NAC 284.888 if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .05 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.~~

~~—2]1.~~ An employee ~~[who is required to be certified by the peace officers' standards and training commission]~~ must not have a concentration of alcohol in his blood or breath greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority ~~[who has a reasonable belief that an employee is under the influence of alcohol or drugs]~~ in accordance with the provisions of NAC ~~[284.888]~~ **284.650 and 284.653** if a screening test indicates that the concentration of alcohol in the blood or breath of the employee is greater than .01 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.

~~[3. - An employee who is required to have a commercial driver's license or to transport people on a regular basis as a primary function of his job must not have a concentration of alcohol in his blood or breath greater than .04 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty. Disciplinary action may be taken by the appointing authority who has a reasonable belief that an employee is under the influence of alcohol or drugs in accordance with the provisions of NAC 284.888 if a screening test indicates that the concentration of alcohol in the blood~~

~~or breath of the employee is greater than .04 gram by weight of alcohol per 100 milliliters of his blood or per 210 liters of his breath while on duty.]~~

[4]2. A positive result on a screening test of a person's breath must be confirmed by a second screening test. The second screening test must be conducted immediately after receipt of the positive result of the first screening test.

(Added to NAC by Dep't of Personnel, eff. 12-26-91)